



February 22, 2000

Mr. Ben DeBellis
Assistant Superintendent
Personnel Services
Socorro Independent School District
P.O. Box 292800
El Paso, Texas 79929-2800

OR2000-0637

Dear Mr. DeBellis:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 133803.

The Socorro Independent School District (the "district") received a request for the following information for all of the district's employees: name, address, telephone, locations, sex, ethnicity, date of hire, job code, grade, "st step, jobabbr," years of experience, days fte, hours, wage rate, stipends, and years in present position. You seek to withhold the telephone number and wages. However, you have not stated which exceptions of the Public Information Act apply to permit withholding of the information as required by section 552.301(b).

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with section 552.301 results in the legal presumption that the information is public and must be released. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.--Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982). The presumption of openness may be overcome by a showing that the information is made confidential by another source of law or affects third party interests. Open Records Decision No. 150 (1977)

We note that the requested addresses and telephone numbers of the district's employees may be confidential under section 552.117 of the Government Code. Section 552.117 excepts from required public disclosure the home addresses, telephone numbers, social security numbers, or information revealing whether a public employee has family members of public employees who request that this information be kept confidential under section 552.024. Therefore, section 552.117 requires you to withhold the home telephone number and address of a current or former employee or official who requested that this information be kept confidential under section 552.024. *See* Open Records Decision Nos. 622 (1994), 455 (1987). You may not, however, withhold the information of a current or former employee who made the request for confidentiality under section 552.024 after this request for information was made. Whether a particular piece of information is public must be determined at the time the request for it is made. Open Records Decision No. 530 at 5 (1989). Therefore, if the employee or official has elected to not allow public access to this information in accordance with the procedures of section 552.024 of the Government Code, we believe that the district must withhold this information from required public disclosure pursuant to section 552.117.

The district must release the remaining requested information because it failed to comply with section 552.301 and has not shown a compelling reason to overcome the presumption of openness. *See* Gov't Code § 552.022(a)(2) (name, sex, ethnicity, salary, title, and dates of employment of each employee of governmental body are public and not excepted from disclosure under Public Information Act).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the

governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/cwt

Ref.: ID# 133803

Encl. Submitted disks

cc: Mr. Ralph Yturralde
El Paso Independent School District
P.O. Box 20100
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(w/o enclosures)